

Appl. No. 09/746,354  
Amdt. dated October 28, 2004  
Reply to Office Action of July 28, 2004

NC 25767

### REMARKS/ARGUMENTS

Claims 1-16 remain in this application, wherein claims 1-14 and 16 have been amended to overcome the rejections under 35 USC 112 second paragraph.

Examiner has rejected claims 1-16 under 35 U.S.C. 102(e) and 35 U.S.C. 103(a) as being anticipated and obvious over Smith (U.S. Patent No. 6,553,468 B1). The patent of Smith teaches a storage scheme where operating instructions can be over-written with data as familiarity with a personal digital device (PDD) improves, col. 1 lines 26-31, and col. 4 lines 13-18. PDD memory contains instructions and user storage area, col. 2 lines 27-31, additional memory is available for remote storage, for "web-aware" devices a network option exists, col. 3 lines 24-27 and secondary storage can be employed using zip or disk drives, col. 3 lines 29-33. User activity is monitored to dictate what information is over-written and the timing of this action, col. 4 lines 62-64. The only option for user input is outlined in col. 6 lines 32-37, wherein the user is presented an option on whether to delete information to provide additional memory.

Regarding applicant's amended independent claims 1, 11 and 14, the Smith patent does not provide control parameters associated with

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applications. No hierarchal user defined system is taught or contemplated by Smith to maximize memory for applications for a mobile device. No system is taught or contemplated by Smith to check for an existing application before requesting downloading of the application from the network. In other words, the patent of Smith is designated to delete instructional data to provide additional data storage capability, not the user defined rating and storage scenario set forth in the present invention. As dependent claims 2-10,12,13 and 15-16 are not rendered anticipated or obvious in light of Smith's failure to disclose claimed features of their respective independent claims, these dependent claims are further distinguished from the cited art.

Accordingly, present claims 1-16 are believed to be in allowable form having overcome all existing rejections set forth within the office action of July 28, 2004. Therefore, the applicant respectfully requests allowance of all the claims and issuance of a notice of allowance.

Respectfully submitted,

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